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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,190	12/01/2003	Ching-Piau Lai	PUSA031012 (15749/451)	2563
23595	7590	08/08/2006	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			MANOHARAN, VIRGINIA	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,190	Applicant(s) LAI, CHING-PIAU	
	Examiner Virginia Manoharan	Art Unit 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant should submit any information relevant to the claimed invention which is material to patentability as defined in 37 CFR 1.56. Note , e.g., indication at page 4 lines 20-21 of a “conventional desalinating methods”.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicant’s cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a).The inconsistent used of terminology in the claims is improper. For examples:

- 1). The “heating chamber” in claim 1, as opposed to “heating system” in claims 3-4 & 6;
- 2). The “at least one heater” in claim 1, lines 6-7, as opposed to “the heater” in claim 16.

b). The claimed “the ocean” claim 6; and “the seawater is introduced into the system” (not initially recited in the base claim) in claim 7, both lack proper antecedent supports.

c). It is unclear whether the heating unit, recited in claim 1, lines 13-14, do in fact receive thermal energy from a heating device with the recitation of “adapted to”.

(Deleting this phrase in the claim obviates this rejection).

d). The terms "tiniest " and "tiny" as in "only tiniest steam" and "tiny element" in claim 1, line 23 are relative terms which render the claim indefinite. The terms are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Also, the above terms provide for ambiguity in the claims. How can a compound like water or an element be tiniest or tiny?

e). Reciting "an outer cooling assembly" in claim 1, line 2, at page 17 without reciting an inner assembly or device provides for confusion in the claims.

f). It is unclear whether "a water inlet" in claim 30 is the same or different from "a water inlet" in claim 1, line 10.

g). The terms "distillatory" and "distillatories" in claim 1 should be --distilling or distillation unit(s)- as the latter is the term normally used in the field of distillation.

Claims 1-31 are objected to because of the following informalities in claim 1:

- 1). The term "stem" in line 7 should be --steam--;
- 2). The article "an" in line 11 should be --a--;
- 3). The term "compact" in line 22 should be --impact-- ?
- 4). The phrase "condensing water" in page 17, line 5 should be --condensed water--.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 and claims 1-25 of copending Application Nos. 10/726, 209 & 10/726,210 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because the structural elements of the instant apparatus are covered in the claims of the above co-pending applications, and vice versa.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-31 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-30 and claims 1-25 of copending Application Nos. 10/726,209 and 10/726,210 respectively. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant

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application are claiming common subject matter, as follows: inter alia, a bottom layer having a heating unit with a base comprising a heating chamber with a bottom and an inner wall made of thermal-conductive and anti-corrosive material, a heater accommodated inside the heating chamber, an impurity depositing area defined in the bottom of the heating chamber, an impurity outlet communicating with the impurity depositing area inside the heating chamber, a water inlet communicating with the heating chamber to conduct water into the heating chamber, and waste water outlet communicating with the heating chamber above the impurity depositing area, a dissociating reducing device, a purifying distilling unit communicated with the cracking unit for distilling and an outer cooling assembly connected to the top layer.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claims 1-31 are allowable over the prior art of record.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- a). Osdor discloses a method and apparatus for fresh water production.
- b). Aoki et al discloses an apparatus for treatment of a solution.
- c). Kott et al discloses used of detergent in a device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Manoharan whose telephone number is (571) 272-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


VIRGINIA MANOHARAN
PRIMARY EXAMINER
ART UNIT 1351 764
8/4/06